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News Release

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University of Illinois to appeal ruling that puts privacy of student records at risk

Millions in federal student aid funding at stake

CHICAGO—The University of Illinois today said it will appeal a ruling by a federal court in Chicago that threatens the privacy of student records and millions of dollars in federal education funds the University receives annually.

Attorneys for the University filed a motion in U.S. District Court requesting a stay of a March 9 order by Judge Joan B. Gottschall that mandates that the University provide student records sought by the Chicago Tribune in an Illinois Freedom of Information Act (FOIA) request, despite a federal privacy law protecting student records. The motion seeks a stay of Judge Gottschall's order pending the outcome of a review by a three-judge appellate panel.

At issue is the University's compliance with the Family Educational Rights and Privacy Act of 1974 (FERPA), the federal law that protects the privacy of student records. The U.S. Department of Education (DOE) enforces the law and, in a previous case, when a university was ordered by a state supreme court to release certain student records in response to a media request, the DOE sued to stop the release of the information.

The motion filed by the University asserts that Judge Gottschall's ruling puts it in the predicament of having to violate FERPA in order to comply with the Tribune's information request. Disclosure of student records would violate federal law and University policies assuring students and their parents that the University will protect their private records and information. The failure by a college or university to comply with FERPA can result in the forfeit of DOE funding, including federal grants and student financial aid.

Judge Gottschall's ruling stated that the University "could choose to reject federal education money, and the conditions of FERPA along with it," and thus forgo those financial resources in the future.

Many U of I students receive federal financial aid, including direct assistance and student loans through DOE. In 2010, the University received \$146 million in student financial aid and other grants from the federal education department, and it administered another \$449 million in federal student loans. Approximately 63.2 percent of the student tuition and fees received by the University last year came from federal financial aid.

Rejecting these federal funds, school officials say, would be tantamount to closing the school's doors to the many applicants and students who rely on financial assistance.

Judge Gottschall's decision is contrary to other rulings on FERPA, and if left to stand would set an adverse precedent for thousands of students and their parents, as well as hundreds of colleges and universities, said Samuel Skinner, an attorney at Greenberg Traurig, LLP., which is representing the University.

"Intrusions into student privacy, once committed, cannot be undone," the University's motion asserts.

Universities collect and maintain a broad range of records and information regarding current and former students and their parents. The records include names, addresses, and Social Security numbers; high school transcripts; college application materials, including standardized test scores; and family financial information. The U of I has a total enrollment of nearly 77,000 undergraduate, graduate and professional students on campuses in Urbana-Champaign, Chicago and Springfield. About 56,250 applications to the U of I for undergraduate enrollment were received last year. The privacy of the information provided by each of these students and applicants is carefully guarded through compliance with FERPA.

This case stems from two of 15 state FOIA requests by the Chicago Tribune in 2009 that sought "the names of applicants' parents and the parents' addresses" among the information it requested about applicants to the Urbana-Champaign campus who were admitted and attended the University. The request was denied on the basis that the information is protected by FERPA. The Tribune also has filed a separate, state lawsuit seeking other information, including students' grade point averages and ACT scores.

The University has argued that FERPA prohibits the release of this information because the law provides states that, "[N]o funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein . . .) of students" without prior written consent.

In responding to more than a dozen FOIA requests from the Tribune in 2009 regarding alleged improper influence on admissions at the Urbana campus, the University provided nearly 5,800 pages of documents. The admission practices brought to light by the media led to hearings by a special state commission, the resignations of the campus chancellor and the University president, and the replacement of six out of nine of the University trustees appointed by the governor. In September 2009, a new Board of Trustees enacted reforms to ensure that the improper practices could not occur again.

"We take seriously the special trust placed in our institution when applicants, students and their families share the details of their lives with us," President Michael J. Hogan said. "We are compelled to safeguard this private information both to honor this trust and to ensure the continued federal funding support for students from all backgrounds at our campuses, as well as the important work of our faculty."

In 2010, the University responded to approximately 605 FOIA requests, providing 101,088 pages of documents to the inquiring parties. University staff routinely handle FOIA requests by responding with as much non-FERPA information as possible. The guiding precedent is a 2002 case involving Miami and Ohio State Universities, in which the schools released disciplinary records containing personally identifiable information to the Chronicle of Higher Education in response to an Ohio Supreme Court order. Both schools informed the Department of Education of the release of the records, the intended future release of records, and their quandary in trying to comply with both the court ruling and FERPA.

To prevent further release of student record information, the Department of Education filed a complaint against the universities and ultimately prevailed in the Sixth Circuit Court of Appeals, which stated in its ruling: "Under FERPA, schools and educational agencies receiving federal financial assistance *must* comply with certain conditions. One condition specified in the Act is that sensitive information about students *may not be released* without [the student's] consent. ... FERPA unambiguously conditions the grant of federal education funds on the educational institutions' obligation to respect the privacy of students and their parents... Once the conditions and the funds are accepted, the school is indeed prohibited from systematically releasing education records without consent."

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The University of Illinois is a world leader in research and discovery, the largest educational institution in the state with more than 76,000 students, 24,000 faculty and staff, and campuses in Urbana-Champaign, Chicago and Springfield. The U of I awards more than 19,000 undergraduate, graduate and professional degrees annually.